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10/026,385	12/21/2001	Gabriel Garcia Montero	RSW920010210US1	1061

  

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EXAMINER	
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ART UNIT	PAPER NUMBER
2142	

  

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

MN

<b>Office Action Summary</b>	Application No. 10/026,385	Applicant(s) MONTERO, GABRIEL GARCIA	
	Examiner Michael D. Meucci	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

In view of the appeal brief filed on 12 July 2007 and supplemental appeal brief filed on 14 September 2007, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, Applicant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then Applicant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Because new grounds of rejection are being made, this action is **non-final**.

1. Claims 1-9 remain pending.
2. The rejection of claim 9 under 35 U.S.C. 112, second paragraph has been withdrawn.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Knight et al. (U.S. 6,493,703 B1) hereinafter referred to as Knight.

a. Regarding claim 1, Knight teaches: at least one message server (lines 7-12 of column 2); a plurality of topics stored in said at least one message server (line 67 of column 1 through line 7 of column 2, lines 6-12 of column 10, and Fig. 1A-1C); a plurality of subtopics associated with at least one of said topics in said at least one message server (lines 2-7 of column 2, lines 12-15 of column 10, and Fig. 1A-1C); and, a dynamic topic partitioning system configured to partition said at least one of said topics into said subtopics (lines 7-19 of column 10), wherein messages are posted to (lines 7-12 of column 2) and retrieved from individual ones of said plurality of topics (lines 22-24 of column 2).

b. Regarding claim 3, Knight teaches: wherein said at least one message server resides in at least one process address space (line 62 of column 10 through line 1 of column 11 and Fig. 3A).

c. Regarding claim 4, Knight teaches: wherein said at least one process address space is a Java virtual machine (line 62 of column 10 through line 1 of column 11 and Fig. 3A).

d. Regarding claim 5, Knight teaches: a plurality of threads of execution, each said thread hosting a process for communicating a message between one of said subtopics in said at least one message server and a message subscriber (lines 2-4 of column 2 and lines 13-15 of column 2).

e. Regarding claim 6, Knight teaches: a message interface through which message publishers can post messages to selected topics (lines 7-12 of column 2), and from which message subscribers can request messages which have been published to selected topics (lines 21-24 of column 2); a subtopic store configured to distribute message of said selected topics within associated subtopics (lines 18-21 of column 2 and lines 12-19 of column 10); and, a request processor in which requests to post and retrieve messages to and from individual ones of said selected topics can be converted into message system requests to respectively post and retrieve messages to and from said associated subtopics in said subtopic store, said request processor processing each of said converted message system requests in individual threads of execution (lines 7-18 of column 2, lines 21-24 of column 4, lines 28-31 of column 8, and lines 1-5 of column 10 ).

f. Regarding claims 8 and 9, Knight teaches: intercepting message requests for a selected topic from subscribers in the message system (lines 6-12 of column 10); associating said message requests with a plurality of subtopics created for said selected topic (lines 12-19 of column 10); and servicing said message requests with messages in said subtopics from within separate threads of execution for each subtopic-subscriber pair (lines 2-4 of column 2 and lines 13-15 of column 2 and lines 24-27 of column 10).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight as applied to claims 1 and 6 respectively above, in view of Razdan et al. (U.S. 2002/0141584 A1) hereinafter referred to as Razdan.

a. Regarding claim 2, while Knight teaches: Java applets and java virtual machine (line 62 of column 10 through line 1 of column 11 and Fig. 3A), Knight does not explicitly teach: wherein said message server is Java message service (JMS) compliant. However, Razdan discloses: "The application may deliver the reports created by the accounting module as HTTP GET message. The server-to-server communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service (JMS)," (paragraph [0081] on page 7). It would have been obvious for

one of ordinary skill in the art at the time of the applicant's invention to have said message server as Java message service (JMS) compliant. "Similarly, Publisher's webserver will communicate with Clearinghouse web server to collect tracking information. Clearinghouse web server will send a HTTP POST message 410 to Publisher to relay the transaction information, and other tracking information it has collected during the course of the day or a given time period that is agreed to by the Publisher and Clearinghouse. Publisher may send HTTP POST message 462 on its own initiative to request transactional, tracking and auditing information from the Clearinghouse. This communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service," (paragraph [0082] on page 7 in Razdan). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have said message server as Java message service (JMS) compliant in the system as taught by Knight.

b. Regarding claim 7, while Knight teaches: Java applets and java virtual machine (line 62 of column 10 through line 1 of column 11 and Fig. 3A), Knight does not explicitly teach: wherein said message interface comports with the Java message service (JMS) specification. However, Razdan discloses: "The application may deliver the reports created by the accounting module as HTTP GET message. The server-to-server communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service (JMS)," (paragraph [0081] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have said message interface comport with the Java message service (JMS) specification.

"Similarly, Publisher's webserver will communicate with Clearinghouse web server to collect tracking information. Clearinghouse web server will send a HTTP POST message 410 to Publisher to relay the transaction information, and other tracking information it has collected during the course of the day or a given time period that is agreed to by the Publisher and Clearinghouse. Publisher may send HTTP POST message 462 on its own initiative to request transactional, tracking and auditing information from the Clearinghouse. This communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service," (paragraph [0082] on page 7 in Razdan). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have said message interface comport with the Java message service (JMS) specification in the system as taught by Knight.

### ***Response to Arguments***

7. Applicant's arguments, see appeal brief, filed 12 July 2007, with respect to the rejections of claims 1-9 have been fully considered and are persuasive. The rejection of claims 1, 5, 8, and 9 under 35 U.S.C. 102 (e) and the rejection of claims 2-4 and 6 under 35 U.S.C. 103(a) have been withdrawn. However, new grounds of rejection with respect to claims 1-9 have been presented above.



***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Andrew Caldwell". The signature is fluid and cursive, with the first name "Andrew" and last name "Caldwell" clearly distinguishable.

ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER